

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

RICELAND FOODS, INC., et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 4:09CV830 CDP
)	
SCF MARINE, INC., et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

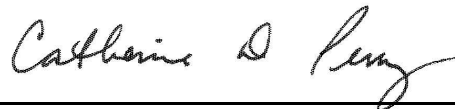
This matter is before me on plaintiffs’ motion to transfer this case to the Eastern District of Louisiana. In this admiralty case, plaintiffs seek damages from defendant for loss and damage to its rice cargo. According to the complaint, at the time of the loss the cargo was aboard barges owned and operated by SCF Marine, Inc. Plaintiffs’ complaint also named Cooper T. Smith Stevedoring Co., Inc as a defendant, but I dismissed Cooper for lack of personal jurisdiction on September 9, 2009.

On the same day plaintiffs filed this case, they filed an identical action against the same defendants making the same claims and seeking the same relief in the Eastern District of Louisiana. Plaintiffs claim they only filed suit here because defendant SCF Marine’s Bill of Lading contains a forum selection clause that “contemplates suit in federal court in St. Louis.” Now plaintiffs move to transfer

the case from the forum they themselves selected to the Eastern District of Louisiana under 28 U.S.C. § 1404. I do not understand why plaintiffs want to have two identical suits pending, whether they are pending in one district or two. If the transfer motion reflects plaintiffs' determination that their filing the identical suit in two places on the same day was a bad idea, they could seek a voluntary dismissal of this action under Fed. R. Civ. P. 41(a)(2). I would certainly be inclined to grant a voluntary dismissal motion – even over defendant's objection – so that plaintiffs could prosecute their claim in the forum which they now appear to have chosen. If there is some reason that transfer instead of dismissal is appropriate, plaintiffs need to explain that reason.

Accordingly,

IT IS HEREBY ORDERED that plaintiffs shall, no later than **September 29, 2009**, file either a memorandum explaining why they are seeking to transfer this suit instead of dismissing it, or a motion for voluntary dismissal.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 24th day of September, 2009.